

REMARKS

The Examiner has withdrawn newly submitted claims 17-21 as being directed to an invention distinct from that claimed in the original application as examined. Applicant does not dispute the withdrawal of claims 17-21.

The Examiner has rejected claims 1, 2, 4, 5, 9-11, 13 and 14 under 35 U.S.C. 102(b) as being anticipated by European Patent Application No. EP0510345 to Etzel. The Examiner has further rejected claims 5-7 and 14-16 under 35 U.S.C. 103(a) as being unpatentable over Etzel. Applicant acknowledges that the Examiner has found claims 3 and 12 allowable over the prior art of record.

The Etzel patent discloses a loudspeaker for use in a vehicle, which includes a housing includes a fore part, a base part and a transition section.

As noted in MPEP § 2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The Examiner has indicated that Etzel discloses:

"The transitional areas (20, 21) behave as hinges under the influence of an axial load (see the abstract), and the intermediate housing part turns toward the

translation axis and the forepart turns toward the rear side under the influence of the load when the speaker or the magnet system moves back and forth under the force P acting on the magnet system (also see figures 1-2)."

Applicant submits that the Examiner is mistaken. In particular, the only portion of Etzel that appears in English, besides the Title, is the claims which state:

- "1. Loudspeaker for use in motor vehicles, characterized in that the frame (12) of the loudspeaker (12), at one end of which the magnet system (11) is permanently arranged, is constructed so that forces (P) acting on the magnet system (11) or on the end of the frame (12), respectively, at which the magnet system is arranged, are not transmitted, or are transmitted only to a considerably reduced extent, to the other end of the frame (12).
2. Loudspeaker according to Claim 1, characterised in that in the case of a loudspeaker frame (12) formed from plastic, for example: this frame (12) has a predetermined breaking point (20) which is dimensioned so that it ruptures beyond a predetermined force (P) acting on the magnet system (11) and the part of the frame (12) to which the magnet system (11) is attached is decoupled from the other part of the frame (12).
3. Loudspeaker according to Claim 2, characterised in that the distance (A) between the central axis of the loudspeaker and the predetermined breaking point (20) of the frame (12) barely exceeds the dimension (B) which exists between the central axis of the loudspeaker and the area of the magnet system (11) furthest away from it.
4. Loudspeaker according to Claim 2 or 3, characterized in that the predetermined breaking point (20) is constructed so that if the two parts of the frame (12) break apart, it does not prevent the frame section connected to the magnet system (11) from penetrating the space (22) that is bounded by the loudspeaker diaphragm (13).
5. Loudspeaker according to Claim 1, characterised in that the loudspeaker frame (12) has a continuous predetermined rupture zone which, in the event of a force (P) acting on the magnet system (11), ensures that the frame (12) telescopes concertina-fashion in the predetermined rupture zone."

Applicant submits that from the above, it should be clear that Etzel discloses that zone 20 is in fact a breaking point, and that the grooves 21 (shown in fig. 1 therein) weaken the material in the zone 20 such that an axial force above a predetermined amount causes the zone 20 to rupture. As shown in Fig. 2 therein, the result of this rupture is that the forepart of the frame telescopes "concertina-fashion" over the rear part of the frame bearing the magnet structure.

Applicant therefore submits that it should be clear, contrary to the statement of the Examiner, that Etzel neither discloses nor suggests that "The transitional areas (20, 21) behave as hinges under the influence of an axial load...."

It is noted that the Examiner mentions "(see the abstract)" in his description of what is disclosed by Etzel.

Applicant has reviewed Etzel in detail and nowhere does there appear an "abstract". Rather, the only abstract in the present case is that associated with the subject application, which describes the subject invention.

In view of the above, Applicant believes that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, and as such, is patentable thereover.

Applicant believes that this application, containing claims 1-7 and 9-21 (claims 17-21 having been withdrawn), is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

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